REMARKS

Please reconsider this application in view of the following remarks. Applicant thanks the Examiner for carefully considering this application, for indicating that claim 3 is allowed, and for indicating that claim 2 contains allowable subject matter.

Disposition of the Claims

Claims 1-4 are pending in this application. Claims 1, 3 and 4 are independent claims. Claim 2 depends from claim 1.

Rejection under 35 U.S.C. § 102

Claims 1 and 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,002,248 ("Binder"). This rejection is respectfully traversed.

Referring to Figs. 1A and 1B as an example, the sealing member 5 of the claimed invention is fitted to a bearing device for sealing a bearing space between raceway members 1, 2. The sealing member 5 is made of rubber or resinous elastic element 7 equipped with a core metal 6. An IC tag 9 is fitted to the core metal 6, and the core metal serves as an antenna for the OC tag 9.

Accordingly, claim 1 requires, in part, "a sealing member...is made of rubber or resinous elastic element equipped with a core metal," and "an IC tag is fitted to the core metal serving as antenna." Similarly, claim 4 requires, in part, "space is sealed by a non-contact type sealing member made of metallic material," and "an antenna-equipped IC tag being fitted to the sealing member through an insulating piece."

In the Office Action, the Examiner asserts that Binder teaches the core metal because "it is apparent the sealing (5) includes a metal core for preventing the collapse of the sealing material during operation."

Applicant respectfully notes that Binder fails to show or suggest the sealing member equipped with a core metal, as required by the claim 1, or a sealing member made of metallic material, as required by claim 4. The Examiner appears to be asserting that the seal 5 of Binder inherently teaches a core metal, because it is necessary to prevent collapse of the seal 5. However, the Examiner has not met his burden to demonstrate that the core metal is inherently present in the seal 5. To assert inherency, the Examiner must demonstrate that the claimed element *must necessarily* exist in the prior art apparatus. The fact that a certain characteristic *may* occur or be present in the prior art is not sufficient to establish the inherency of that characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (citing *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981)). Contrary to the Examiner's assertion, a core metal is not necessary to prevent collapse of the seal 5, because the seal 5 is not load-bearing. That is, the load between the outer ring 1 and the inner ring 4 is borne by the bearing balls 3 and, thus, the seal 5 would not collapse, even if a core metal was not employed. Thus, Binder fails to inherently teach a core metal disposed in the seal 5.

The Examiner further asserts that "The annular rings of bearing balls 3 (see figure 1) can certainly be construed to be a core metal recited in these claims." Although Binder does not disclose an annular ring in the specification, Applicant assumes that the Examiner is referring to the parts of the outer ring 1 and the inner ring 4 that contact the bearing balls. However, claim 1 explicitly requires that the sealing member seals the space between the raceway members, and that the sealing member be equipped with the core metal. Similarly,

claim 4 explicitly requires that "a bearing space delimited between raceway members...is sealed by a non-contact type sealing member made of metallic material." Thus, because the outer ring 1 and inner ring 4 must be sealed by the sealing member, parts of the outer ring 1 and inner ring 4 necessarily cannot be considered part of the sealing member. Thus, Binder fails to show or suggest at least a sealing member equipped with a core metal, as required by claim 1, or a non-contact type sealing member made of metallic material, as required by claim 4.

Even assuming, *arguendo*, that Binder inherently teaches a core metal in the seal 5, Binder still fails to show or suggest that the IC tag is fitted to the core metal, or that the core metal as antenna for the IC tag, as required by claim 1, and Binder still fails to show or suggest that the antenna-equipped IC tag is fitted to the sealing member through an insulating piece, as required by claim 4. In the claimed invention, because the IC tag is fitted to the core metal, the core metal can serve as an antenna for the IC tag. Even if the core metal must necessarily be present in the seal 5 in order to prevent collapse (which, as explained above, it is not), Binder fails to show or suggest that the microsensor 6 is disposed on a core metal. Applicant notes that the microsensor 6 is irrelevant to providing support to the seal 5 and, thus, even if a core metal was required in the seal 5 to prevent collapse, Binder does not inherently the IC tag *fitted to the core metal*, or that the core metal *serves as an antenna*. Thus, Binder fails to show or suggest at least "an IC tag is fitted to the core metal serving as antenna," as required by the claim 1, or "an antenna-equipped IC tag being fitted to the sealing member through an insulating piece," as required by claim 4.

In view of the above, claims 1 and 4 are patentable over Binder, at least for the above reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 17214/011001).

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Respectfully submitted,

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